



Federal Communications Commission
Washington, D.C. 20554

04-435

September 20, 2005

The Honorable Adam Smith
U.S. House of Representatives
227 Cannon House Office Building
Washington, D.C. 20515

Dear Congressman Smith:

Thank you for your August 17, 2005 letter, in which you express concerns regarding the Commission's recent proposal to relax its current ban on the use of 800 MHz cellular telephones in airborne aircraft.¹ In particular, you stress the importance of passenger safety and national security, and caution that the airborne use of wireless devices could result in interference to terrestrial cellular telephone networks as well as critical aircraft communications or navigation systems. Your letter notes that the Department of Justice and the Department of Homeland Security have raised national security and law enforcement concerns with respect to such use, and that a recent poll indicates that a significant number of those responding oppose lifting the restriction.

In your letter, you note that not all cellular phone usage interferes with onboard systems, and that you do not oppose cellphone use in certain circumstances. Nonetheless, you believe that passengers currently have access to an inflight phone service, the Air-Ground Radiotelephone Service, that does not interfere with navigation systems, and that does not have the potential to interfere with airplane security. While your letter acknowledges that there may be benefits to onboard cellphone use, you believe that national security and public safety are more significant concerns, and that the lifting of the ban on airborne cellular use will affect the safety of all passengers as well as the security of our nation.

As you are aware, the Commission adopted the current ban on the airborne use of cell phones in 1991 out of concern that such use would interfere with terrestrial cellular networks. In contrast, the Federal Aviation Administration (FAA) regulates the use of cellular telephones, as well as other transmitting portable electronic devices (T-PEDs), on airplanes due to concern that such devices might interfere with aircraft communications and navigation systems. Independent of the Commission's ban, the FAA generally prohibits the use of T-PEDs on airborne aircraft, subject to certain limited discretion on the part of the airlines.

Since 1991, advances in technology appear to address the concerns of interference to terrestrial systems that originally caused the Commission to adopt the ban. Consequently, it may now be possible for the traveling public to use their cell phones while airborne without increasing the risk of interference to cellular systems on the ground. Accordingly, in the *Notice of Proposed Rulemaking (Notice)*, the Commission proposed to relax the ban on the airborne use of cellular telephones so long as the phones are controlled by a "pico cell" installed onboard private or commercial aircraft that directs the handsets to

¹ See Amendment of the Commission's Rules to Facilitate the Use of Cellular Telephones and other Wireless Devices Aboard Airborne Aircraft, WT Docket No. 04-435, *Notice of Proposed Rulemaking*, 19 FCC Rcd 22340 (2004).

The Honorable Adam Smith

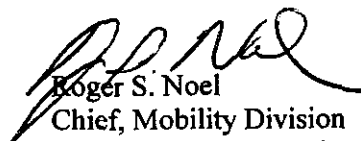
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operate at or near their lowest applicable power settings. It also sought comment on various other issues related to the possible use of airborne cellular units.

In the public comment period for this proceeding which ended on August 11, 2005, a number of parties raised concerns similar to yours about the Commission's proposal. Please be assured that your concerns will be carefully considered before action is next taken in this proceeding.

As a matter of procedure, your letter, as well as this response, will be placed in the record of this proceeding. Please do not hesitate to contact me, or Guy Benson, Mobility Division, Wireless Telecommunications Bureau, at 202-418-2946, if we can be of further assistance.

Sincerely,

A handwritten signature in dark ink, appearing to read "R. S. Noel", is written over the typed name and title.

Roger S. Noel
Chief, Mobility Division
Wireless Telecommunications Bureau

ADAM SMITH

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Congress of the United States
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Washington, DC 20515-4709

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August 17, 2005

Secretary Marlene H. Dortch
Federal Communications Commission
Office of the Secretary
445 12th Street, SW
TW-B204
Washington, DC 20554

RE: WT Docket No. 04-435

Dear Secretary Dortch:

I am writing to express my concerns about the Federal Communications Commission's (FCC) Notice of Proposed Rule Making to replace or relax the Commission's ban on airborne use of 800 MHz cellular handsets, as well as on other proposals to facilitate the use of wireless handsets and devices on airborne aircraft. I appreciate the FCC's decisions to extend the deadline for public comment on this matter.

Since September 11, 2001, the commercial airline industry has slowly improved and the number of passengers has increased. With that, national security has intensified to a level where each passenger is searched and each bag is X-rayed. These are the compromises we make to ensure each flight is safe and secure. We as a nation have taken many steps to make certain our skies are as safe as possible for the millions of travelers every year. Many agencies have taken steps to prevent future attacks by limiting the types of equipment that can be brought aboard a flight or that can be carried in checked bagged.

One of these precautions taken by the FCC and the Federal Aviation Administration (FAA) is to prohibit the use of cellular phones while airborne. Since 1991, Americans travelers have been prohibited from using cellular phones and wireless communication devices on airborne aircrafts. These licensed land mobile devices, if used while airborne, would have a much greater transmitting range than a land mobile unit. This could result in serious interference to transmissions at other cell locations and may interfere with critical aircraft communication systems and navigation equipment.

The Department of Justice and the Department of Homeland Security have raised national security and law enforcement concerns should cellular phones or wireless devices be allowed for use. The coordination of terrorists on or offboard a flight or the detonation of remote-controlled improvised explosive devices on aircrafts is a potential

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we should take seriously. As we have learned from the recent Madrid train bombings, cell phones can be used to halt public transportation systems.

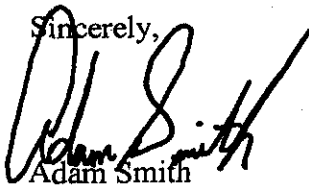
I recognize that there are times when cellular phone usage does not interfere with the flight and navigation systems. I am not opposed to the use of cellular phones in an aircraft while at the gate or during an extended wait on the ground, if specifically authorized by the captain. I also do not want to prevent Federal Air Marshals from communicating information about suspicious passengers or unusual activity aboard an aircraft. With that said, I believe there are opportunities for passengers to use telephones in flight with the use of inflight phones services. These telephones have been permanently installed in the aircraft and are licensed as air-ground radiotelephone service frequencies, which do not interfere with the navigation systems and do not have the potential to interfere with the security of the plane.

In addition to national security concerns, we should be conscious of the traveling experience. Airline passengers today are increasingly inconvenienced and stressed, particularly when dealing with fears of terrorism, long lines at the check-in and screening process, flight delays and cancellations and the lost baggage. Once onboard, a comfortable environment should be created for passengers.

In a recent poll conducted by Lauer Research, sixty-three percent of those responding opposed the idea of relaxing the rule on cellular phone use on planes, while only twenty-one percent were in favor of removing the restrictions. Eighty-four percent agreed that it is too soon to lift the ban and seventy-eight percent of respondents believed that cellular phones might distract passengers from hearing life-saving instructions in an emergency. I believe passengers are rightfully concerned for their safety or their comfort when flying.

While I understand opportunity for business to continue inflight, I believe national security and public safety are more significant concerns. If the proposed rule repeals the cellular phone ban on airborne flights, it will adversely affect the safety of all passengers and the security of our nation. I hope you will give every consideration to these concerns in deciding whether to move forward with the proposed rule.

Sincerely,

A handwritten signature in dark ink, appearing to read "Adam Smith", is written over the printed name.

Adam Smith
Member of Congress